HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

LETTERS PATENT APPEAL NO. 233 OF 2006.
IN
WRIT PETITION NO. 1350 OF 1999.

Hridaynarayan Girija Tiwari. ..Appellant.

Versus.

Dairy Development Commissioner
& others. ..Respondents.

Mr. N. M. Ganguli for the appellant.

Mr. R. M. Patne, A.G.P. for the respondent - State.

CORAM: S. B. MHASE &
SMT. NISHITA MHATRE, JJ.

DATE: JANUARY 31, 2007.

P.C.

1. Heard Mr. N. M. Ganguli learned counsel for the appellant and Mr. R.M.Patne, learned A.G.P. for the State - respondent.

2. In Reference (IDA) No. 750 of 1990 re-instatement with 80% backwages has been granted in favour of the appellant. That order was challenged by the appellant before the learned Single Judge by filing Writ Petition No. 1350 of 1999. The same order was challenged by the employer, viz., Dairy Development Commissioner, by filing another writ petition being Writ

Petition No. 4607 of 1998. Both these writ petitions were rejected by the learned Single Judge of this Court. As against the rejection of writ petition No. 4607 of 1998, the Dairy Development Commissioner no LPA has been preferred, however, the employee has preferred this LPA being the petitioner in Writ Petition No. 1350 of 1999.

3. So far as the re-instatement is concerned that has been granted and the appellant has already been re-instated in services and is working with the respondent. Now, the only question is in respect of 80% backwages which are granted, namely, according to the appellant there should not have been cut of 20% in backwages and full backwages should have been granted. Mr. N.N.Ganguli, learned counsel for the appellant submitted that the reasoning adopted for not granting full backwages is not just and proper. Learned counsel further submitted that charge which was levelled was not a mis-conduct and therefore, the full backwages should have been granted. We are not in agreement with the learned counsel for the appellant. There is a finding of Labour Court that the allegations constituted misconduct, and that has also been accepted by the learned Single Judge and in the backdrop of the circumstances that the misconduct alleged has been established, 20% cut in backwages has been carried out by the Labour Court which

is further accepted by the learned Single Judge of this Court. We find, in the facts and circumstances of the case the cut of 20% backwages is just and proper and no interference is required from this Court. Letters Patent Appeal is without any substance, it is hereby rejected.

(SMT. NISHITA MHATRE, J.) **(S.B.MHASE, J.)**

:sachin/2007/nnm/..